



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0911]

RIN 1625-AA09

Drawbridge Operation Regulation; Red River, Shreveport, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the draws of the Union Pacific Railroad bridge, mile 227.0, and the Midsouth Railroad bridge, mile 228.2, across the Red River at Shreveport, LA. This proposed rule would allow the drawbridges to permanently remain in the closed-to-navigation position, no longer opening for vessel traffic. While there is vessel traffic on the waterway, no one has requested that either drawbridge open since 2007. Union Pacific Railroad and Midsouth Railroad, the bridge owners, requested to update the operating schedule accordingly.

DATES: Comments and related material must reach the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-0911 using Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public

Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Eric A. Washburn, Bridge Administrator, Western Rivers, U.S. Coast Guard; telephone 314-269-2378, e-mail Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The Coast Guard proposes to change the operating schedule that governs the draws of the Union Pacific Railroad bridge, mile 227.0, and the Midsouth Railroad bridge, mile 228.2, across the Red River at Shreveport, LA. The Red River extends approximately 294.0 miles from mile marker 304.0 on the Lower Mississippi River to Shreveport, LA, then through Twelve Mile and Cypress Bayous to its head of navigation near Daingerfield, TX. Regulations for the operation of drawbridges on the Red River are contained in 33 CFR 117.491. The Union Pacific Railroad bridge, mile 227.0, and the Midsouth Railroad bridge, mile 228.2, are currently the only bridges governed by the regulations in 33 CFR 117.491(c), which state that, “the draws of the bridges above mile 105.8 through mile 234.4 shall open on signal if at least 48 hours notice is given.”

Navigation on the Red River in the vicinity of these bridges consists primarily of recreational craft, and commercial use of the waterway is only possible during periods of

high water. Moreover, the U.S. Army Corps of Engineers does not maintain any project depth or navigable channel on this reach of the Red River, nor does the U.S. Coast Guard maintain any aids to navigation above mile 211.4. Under 33 CFR 117.491(d), the bridges above mile 234.4 need not open for the passage of vessels. There are no alternate routes for vessels transiting this section of the Red River.

Union Pacific Railroad owns the Union Pacific Railroad bridge, mile 227.0, across the Red River at Shreveport, LA, and has requested that the drawbridge regulation be amended to allow the bridge to remain in the permanently closed position. Union Pacific provided the Coast Guard with bridge logs that indicate that there has been no request for a bridge opening since 2007. In the closed position, the Union Pacific Railroad bridge, mile 227.0, provides 15.1 feet of vertical clearance at mean high water.

Midsouth Railroad owns the Midsouth Railroad bridge, mile 228.2, across the Red River at Shreveport, LA, and has also requested that the drawbridge remain in the permanently closed position. Midsouth Railroad provided the Coast Guard with bridge logs that indicate that there has been no request for a bridge opening since 2007. In the closed position, the Midsouth Railroad bridge, mile 228.2, provides 37.0 feet of vertical clearance at mean high water.

Under 33 CFR 117.39, the District Commander may authorize a drawbridge to remain in the closed to navigation position and be untended when there have been no requests for drawbridge openings for two years. Due to the lack of significant navigation on this portion of the Red River that requires draws to open and the fact that there has been no request to open the draws in over ten years, the Coast Guard believes that this proposed rule is reasonable, and if implemented, should continue to meet the present and

future needs of navigation. Based on the records provided by Union Pacific Railroad and Midsouth Railroad, it is expected that the proposed change will have no known impact to navigation or other waterway users. The Coast Guard proposes this rulemaking under authority of 33 U.S.C. 499.

III. Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.491(c), which governs the operating schedule of the draws of the Union Pacific Railroad bridge, mile marker (MM) 227.0 and the Midsouth Railroad bridge, MM 228.2, across the Red River at Shreveport, LA. The regulation currently requires the draws of the bridges above mile 105.8 through mile 234.4 to open on signal if at least 48 hours' notice is given. This proposed rule would allow the bridges to remain closed to the passage of vessels. However, pursuant to 33 CFR 117.39, this rulemaking would include a provision that requires the owner or agency controlling the bridge to the draw to full operation within three months if the District Commander provides a notification that needs of navigation require resumed operation of the spans. The regulatory text and changes we are proposing appear at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that these drawbridges do not currently open for the passage of vessels due to the lack of navigation on the river. The last recorded opening of the drawbridges was in 2007. Consultation with the bridge owners indicated that currently no bridge tender positions are assigned to the bridges.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A. above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies

and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this

proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves changing the operating schedule that governs the draws of two bridges on the Red River near Shreveport, LA to remain permanently closed to navigation. Normally such actions are categorically excluded from further review, under paragraph L49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration is not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online

docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security
Delegation No. 0170.1.

2. In § 117.491, revise paragraph (c) to read as follows:

§ 117.491 Red River.

(c) The draws of the bridges above mile 105.8 through mile 234.4 need not open for passage of vessels. The owner or agency controlling the bridge must restore the draw to full operation within three months if notified by the District Commander that the needs of navigation require resumed operation of the spans.

Dated: June 12, 2018

P.F. Thomas,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.

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